IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Bhanwarlal v. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.3291/2000
under Article 226 of the Constitution of India.

Date of Order : 25th October, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rajendra Kothari, for the petitioner.]
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. B.K.Bhatnagar, for the respondent No.4.

BY THE COURT :

This petition for writ is directed against the judgment dated 23.12.1999 passed by Rajasthan Non-Government Educational Institution Tribunal, Jaipur.

The facts necessary to be noticed to adjudicate the present petition are that by an order dated 1.7.1985 appointment was given to the petitioner as Teacher at the consolidated honorarium of Rs.500/- per month. According to the averments contained in the petition the petitioner though is in employment of the respondent since 1.7.1985 and the services are utilised by the respondents as Teacher, but the pay scale pertaining to the post, increments attached

thereto and the selection grades as provided by the Government of Rajasthan under notification dated 25.1.1992 are not allowed to him by the respondents. For redressal of this grievance the petitioner approached to the Rajasthan Non-Government Educational Institution Tribunal, Jaipur by way of filing an application under Section 21 of the Rajasthan Non-Government Educational Institution Act, 1989. The application preferred by the petitioner came to be accepted in part by judgment dated 23.12.1999. Learned Tribunal by judgment aforesaid declared the petitioner entitled to be fixed at the minimum of pay scale prescribed for the post of Teacher Gr.III from the date of his initial appointment i.e. 1.7.1985.

The contention of counsel for the petitioner, to give challenge to the judgment impugned, is that the learned Tribunal, while not declaring the petitioner entitled to get annual grade increments and selection grades attached thereto, committed an error which is required to be rectified by this Court while exercising powers under Articles 226 and 227 of the Constitution of India.

Heard counsel for the parties.

It is the position admitted that the petitioner at the time of his initial appointment was not having requisite training required under the Rules

to hold the post of Teacher. Irrespective of it the appointment was given to the petitioner as Teacher by the respondents and that too without holding regular selection proceedings. The appointment of the petitioner, therefore, was not regular. The appointment was given to the petitioner at the consolidated honorarium of Rs.500/- per month and the Tribunal on basis of principles of equal pay for equal work declared the petitioner entitled for fixation of his pay at the minimum of pay scale applicable to the post of Teacher Gr.III. Learned Tribunal has not allowed annual increments and selection grades to the petitioner and nothing wrong is done by the Tribunal while doing so as the grant of increments is applicable to regular employees under the relevant Service Rules. In State of Rajasthan a Government servant earns increments by the force of Rule 29 of the Rajasthan Service Rules, 1951. The Teachers working in the Government aided institutions who receive increments being required to be treated at par to the Teachers working in the Department of Education. The petitioner being an employee not working in substantive capacity is not entitled for getting increments.

The selection grades under the notification dated 25.1.1992 are prescribed by Government of Rajasthan in lieu of promotion. A right to be considered for promotion accrues to the regularly

selected employees only. The petitioner not being a regularly selected substantive appointee is not entitled for grant of selection grades.

In view of it I do not find any error in the judgment impugned. The writ petition, therefore, deserves to be dismissed.

At this stage it is pointed out by counsel for the petitioner that the Government of Rajasthan by circular No.F.20(1)FD(Gr.2)92 Pt.IV dated 27.7.1995 provided that a person appointed as untrained Teacher shall be entitled to be regularised in service and shall be treated as a Teacher trained on completion of service of 10 years. A copy of the aforesaid notification is also available on record as Anx.8. According to counsel for the petitioner the petitioner has already completed 10 years of service on 1.7.1995, therefore, now the petitioner is entitled to be regularised in services w.e.f. 1.7.1995. He has requested to give a direction for respondents to treat the petitioner regularly selected employee atleast from 1.7.1995 and then to allow him selection grades by computing his regular services from 1.7.1995.

The present writ petition is directed against the judgment passed by the Tribunal, therefore it shall not be appropriate to give any such directions. However, if the petitioner submits a representation to

the respondents giving details with regard to his service tenure with reference to the notification dated 27.7.1995, the respondents are expected to consider the same in accordance with law.

The writ petition stands dismissed with no order as to costs.

(GOVIND MATHUR),J.

kkm/ps.